

UNITED STATES DISTRICT COURT
District of Delaware

UNITED STATES OF AMERICA

V.

MOTIVA ENTERPRISES LLC

JUDGMENT IN A CRIMINAL CASE
(For Organizational Defendants)

CASE NUMBER: 1:05-CR-021-SLR

Eric Kraeutler, Esq.

Defendant Organization's Attorney

THE DEFENDANT ORGANIZATION:

☒ pleaded guilty to count(s) I, II, and III of the criminal information.☐ pleaded nolo contendere to count(s) _____
which was accepted by the court.☐ was found guilty on count(s) _____
after a plea of not guilty.

The organizational defendant is adjudicated guilty of these offenses:

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
33 U.S.C. Sections 1311 and 1319(c)(2)(A) and 18 U.S.C. 2	Knowingly causing the discharge of a pollutant from a point source into a water of the United States	07/18/2001	I
42 USC Section 7413(c)(4) and 18 U.S.C. 2	Negligently releasing into the ambient air sulfuric acid; and negligently placing a person in imminent danger of death or serious bodily injury	07/17/2001	II
33 U.S.C. Sections 1311 and 1319(c)(1)(A) and 18 U.S.C. 2	Negligently causing the discharge of a pollutant from a point source into navigable waters of the United States	07/17/2001	III

The defendant organization is sentenced as provided in pages 2 through 5 of this judgment.☐ The defendant organization has been found not guilty on count(s) _____☐ Count(s) _____ ☐ is ☐ are dismissed on the motion of the United States.

It is ordered that the defendant organization must notify the United States attorney for this district within 30 days of any change of name, principal business address, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant organization must notify the court and United States attorney of material changes in economic circumstances.

Defendant Organization's

Federal Employer I.D. No.: 76-0262490

Defendant Organization's Principal Business Address:

700 Milam11th FloorHouston, TX 77012

Defendant Organization's Mailing Address:

P.O. Box 4540Houston, TX 77210-454003/17/2005

Date of Imposition of Judgment



Signature of Judge

The Honorable Sue L. Robinson, Chief U.S. District Judge-Delaware

Name and Title of Judge

3/22/05

Date

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PROBATION

The defendant organization is hereby sentenced to probation for a term of :

three (3) years.

The defendant organization shall not commit another federal, state or local crime.

If this judgment imposes a fine or a restitution obligation, it is a condition of probation that the defendant organization pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant organization must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page (if indicated below).

STANDARD CONDITIONS OF SUPERVISION

- 1) within thirty days from the date of this judgment, the defendant organization shall designate an official of the organization to act as the organizations's representative and to be the primary contact with the probation officer;
- 2) the defendant organization shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 3) the defendant organization shall notify the probation officer ten days prior to any change in principal business or mailing address;
- 4) the defendant organization shall permit a probation officer to visit the organization at any of its operating business sites;
- 5) the defendant organization shall notify the probation officer within seventy-two hours of any criminal prosecution, major civil litigation, or administrative proceeding against the organization;
- 6) the defendant organization shall not dissolve, change its name, or change the name under which it does business unless this judgment and all criminal monetary penalties imposed by this court are either fully satisfied or are equally enforceable against the defendant's successors or assignees; and
- 7) the defendant organization shall not waste, nor without permission of the probation officer, sell, assign, or transfer its assets.

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CRIMINAL MONETARY PENALTIES

The defendant organization must pay the following total criminal monetary penalties under the schedule of payments on Sheet 4.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
TOTALS	\$ 650.00	\$ 10,000,000.00	\$ n/a

☐ The determination of restitution is deferred until _____. An *Amended Judgment in a Criminal Case* (AO 245C) will be entered after such determination.

☐ The defendant organization shall make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant organization makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
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TOTALS	\$ _____	\$ _____
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☐ Restitution amount ordered pursuant to plea agreement \$ _____

☐ The defendant organization shall pay interest on restitution or a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 4 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

☐ The court determined that the defendant organization does not have the ability to pay interest, and it is ordered that:

☐ the interest requirement is waived for ☐ fine ☐ restitution.

☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

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ADDITIONAL TERMS FOR CRIMINAL MONETARY PENALTIES

Interest will be charged on the unpaid balance of the fine, commencing 15 days of the judgment date, pursuant to Title 18 of the United States Code, Section 3612(f).

Other penalties and fines may be assessed on the unpaid balance of the fine pursuant to Title 18 of the United States Code, Sections 3572(h), (i), and 3612(g).

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SCHEDULE OF PAYMENTS

Having assessed the organization's ability to pay, payment of the total criminal monetary penalties are due as follows:

- A ☒ Lump sum payment of \$ 650.00 due immediately, balance due
- ☒ not later than April 6, 2005 .or
☐ in accordance with ☐ C or ☐ D below; or
- B ☐ Payment to begin immediately (may be combined with ☐ C or ☐ D below); or
- C ☐ Payment in _____ (e.g., equal, weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after the date of this judgment; or
- D ☐ Special instructions regarding the payment of criminal monetary penalties:

All criminal monetary penalties are made to the clerk of the court.

The defendant organization shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☐ Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

- ☐ The defendant organization shall pay the cost of prosecution.
- ☐ The defendant organization shall pay the following court cost(s):
- ☐ The defendant organization shall forfeit the defendant organization's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.